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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1959

No. 585

RALPH RICHARDSON, Petitioner,

vs.

C. C. BRUNNER, Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF KENTUCKY

PETITIONER'S PETITION FOR REHEARING

Rules 25 (2), 58 (2)

CERTIFICATE OF GOOD FAITH, ETC.

Rule 58 (2)

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May it please the Court:

On pages two and three of his response, Respondent says:

> "For further evidence of the insincerity of petitioner's claim that he was prevented from paying his tax, and redeeming his property by the exorbitant price and strict demands of this respondent's counsel, and that he attempted to pay his taxes before expiration of redemption period, and that he was denied due process of law,

> falls flat because he would not have had to come to respondent if he had sought in good faith to redeem his property within the time allowed by law, for that is done in the office of the Tax Receiver and the purchaser has no choice in the matter, but to receive his refund plus interest and penalties."

and then quotes verbatim the redemption statute; namely, KRS 91.510.

The opinion of the Court of Appeals of Kentucky in *Brunner* vs. *Bell*, 290 S.W. 2d 461, answers as follows:

> "Brunner purchased, at public sale, a tax bill for unpaid city taxes on the property in question for the year 1950. The appellee failed to redeem the property within the next two years, as permitted by KRS 91.510 (1), and a tax deed was thereupon issued to the purchaser of the tax bill, as provided by KRS 91.540. Brunner paid the city taxes for the years 1950, 1951, and 1952.
>
> "In her deposition the appellee said that she attempted to pay the city taxes in 1952, but her money was refused by a clerk at the Tax Receiver's office. She was informed that her taxes had already been paid, but the clerk was unable to tell her who had paid them. She was not informed that a tax bill to her property had been sold, and was not told of her statutory right of redemption."

It will thus be clearly seen that KRS 91.540 is unconstitutional in that, without due process of law, it vests in the City Tax Receiver the arbitrary power to ignore the redemption statute and convey the fee simple title to taxpayer's property.

Let the Court bear in mind that petitioner was not allowed—erroneously, as he earnestly contends—to take proof for discovery or any purpose. (R. pp. 29-32.)

King John of England, before the granting of the Magna Charta, never exercised a more arbitrary, absolute and despotic taxing power over his subjects than KRS 91.540 vests in the City Tax Receiver. There are thousands in this city affected by it.

For reasons hereinabove set forth and heretofore set forth in his petition and in his reply brief, he most respectfully submits that the order denying his petition be set aside and that his petition be granted. *Flynn* vs. *United States of America*, 99 L. Ed. 1298; *Schriber-Schroth Co.* vs. *Cleveland Trust Co.*, 305 U.S. 47, 50, 59 S. Ct. 8, 9.

Respectfully submitted,

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Of Counsel

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Rule 58(2)

I, Frank E. Haddad, Jr., counsel for petitioner, in the utmost sincerity and good faith state: (1) that this petition is not filed for delay; (2) that, although the other substantial ground hereinabove stated was available to petitioner, it has not previously been mentioned; that, in fact, he and his co-counsel on Saturday, February 27, 1960, seriously discussed filing a supplemental reply brief, setting up this ground.

Counsel certifies that this petition for rehearing is restricted to that ground. But, having a deep, honest, and sincere conviction that the Court has erred in denying the petition, he most sincerely, earnestly and respectfully requests the Court, not only to read this petition for a rehearing, but to reread and consider

both the petition and reply brief. Counsel, in some small measure, realizes the heavy burden of this Court, *and yet he most earnestly pleads with it in furtherance of justice to set aside its order and grant the petition.*

"IN THE EXERCISE OF OUR APPELLATE JURISDICTION WE HAVE POWER NOT ONLY TO CORRECT ERRORS IN THE JUDGMENT UNDER REVIEW BUT TO MAKE SUCH DISPOSITION OF THE CASE AS JUSTICE REQUIRES."

Honeyman vs. Hanman, 300 U.S. 14, 81 L.Ed. 476.

Respectfully submitted,

FRANK E. HADDAD, JR.,
Counsel for Petitioner